

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
TIDEWATER UTILITIES, INC., FOR THE)
APPROVAL OF THE SEMI-ANNUAL)
ADJUSTMENT TO THE DISTRIBUTION) PSC DOCKET NO. 19-0790
SYSTEM IMPROVEMENT CHARGE (DSIC))
PURSUANT TO 26 *DEL. C.* § 314(B)(5))
(FILED NOVEMBER 22, 2019))

IN THE MATTER OF THE APPLICATION OF)
TIDEWATER UTILITIES, INC., FOR THE)
APPROVAL OF THE SEMI-ANNUAL)
ADJUSTMENT TO THE DISTRIBUTION) PSC DOCKET NO. 20-0337
SYSTEM IMPROVEMENT CHARGE (DSIC))
PURSUANT TO 26 *DEL. C.* § 314(B)(5))
(FILED MAY 21, 2020))

ORDER NO. 9799

AND NOW, this 12th day of May 2021, the Delaware Public Service Commission (“Commission”) determines and orders the following:

WHEREAS, on November 22, 2019, Tidewater Utilities, Inc. (“Tidewater”) filed an application to adjust its “Distribution System Improvement Charge” (“DSIC Rate”)¹ pursuant to 26 *Del. C.* § 314, from 2.80% to 2.92%, with an effective date of January 1, 2020 (“January 2020 DSIC Rate”);² and

WHEREAS, by Order No. 9511, dated December 12, 2019, the Commission approved the January 2020 DSIC Rate on an interim basis and subject to Commission Staff’s review, audit, and annual reconciliation based on the 12-month period ending December 31, 2020 (the “Audit”); and

¹ The DSIC Rate mechanism is described in greater detail in PSC Order No. 5850, dated December 11, 2001.

² The Commission docketed Tidewater’s November 22, 2019 DSIC application as Docket No. 19-0790.

WHEREAS, on May 21, 2020, Tidewater filed an application to adjust its DSIC Rate pursuant to 26 *Del. C.* § 314 from 2.92% to 2.97%, with an effective date of July 1, 2020 (“July 2020 DSIC Rate”);³ and

WHEREAS, by Order No. 9617, dated June 17, 2020, the Commission approved the July 2020 DSIC Rate on an interim basis and subject to the Audit; and

WHEREAS, in Order Nos. 9511 and 9617, at Ordering Paragraph No. 3, the Commission put Tidewater “on notice that it may be obligated to refund or reimburse customers if the Audit determines that the requested DSIC Rate was improperly calculated;” and

WHEREAS, in conducting the Audit in March 2021, Staff determined that, starting with the quarterly report for the 12-months ended March 31, 2020, and continuing with each of the next three quarterly reports, Tidewater’s reported earnings exceeded its authorized rate of return as established in its last general rate case;⁴ and

WHEREAS, under 26 *Del. C.* § 314(b)(10), a water company is not eligible to charge a DSIC Rate if its quarterly rate of return report indicates that it is earning a rate of return that exceeds the rate of return established in its last general rate filing; and

WHEREAS, on March 31, 2021, by Order No. 9767, and without objection from Tidewater or the Delaware Division of the Public Advocate (“DPA”), the Commission directed Tidewater to reset its DSIC Rate to zero effective April 1, 2021, and to work with Staff and the DPA on a refund plan of the DSIC revenues collected since March 31, 2020, with interest, in accordance with 26 *Del. C.* §§ 314(b)(8) and (10); and

³ The Commission docketed Tidewater’s May 21, 2020 DSIC application as Docket No. 20-0337.

⁴ In Tidewater’s last general rate case, PSC Docket No. 13-466, the Commission established an authorized rate of return of 7.92%. PSC Order No. 8611, dated August 19, 2014.

WHEREAS, in completing the Audit with respect to the first quarter of 2020, Staff found that the numbers complied with the statutory requirements and aligned with the DSIC Rates which the Commission previously approved in Order No. 9511. Specifically, Staff found that Tidewater collected \$200,684 in DSIC revenues during the time period of January 1, 2020 through March 31, 2020, which was \$32,886 below the actual DSIC revenue requirement of \$233,571 for this period; and

WHEREAS, Tidewater collected \$216,602 in DSIC revenue for the period April 1, 2020 through June 30, 2020, which shall be refunded to customers with interest; and

WHEREAS, based on its audit of the Docket No. 19-0790 application and the revenues collected by Tidewater under the 2.80% DSIC Rate, Staff recommended that the Commission approve, as final, Tidewater's DSIC Rate of 2.80% for January 1, 2020, through March 31, 2020; and

WHEREAS, with respect to Docket No. 20-0337, Tidewater should not have had a DSIC Rate in place and, therefore, the DSIC revenue collected during the time period associated with Docket No. 20-0337 in the amount of \$548,043, shall be refunded to customers with interest; and

WHEREAS, pursuant to Order No. 9767, the DSIC revenue collected by Tidewater in the amount of \$281,960 during the time period of January 1, 2021, through March 31, 2021, shall also be refunded to customers with interest; and

WHEREAS, on April 22, 2021, pursuant to Order No. 9767, Tidewater filed a refund plan ("Refund Plan") that was consistent with Staff's findings from the Audit as outlined above, and which included the total amount of DSIC revenue plus interest to be refunded to customers along with the manner in which it plans to apply the refund to customers; and

WHEREAS, as calculated by Tidewater and verified by Staff, the total amount of DISC revenue that should not have been collected is \$1,046,605; the total amount of interest thereon is \$20,519; and, as noted above, Tidewater's under-collection amount from the period of January 1, 2020 through March 31, 2020 is \$32,886. The total amount of DSIC revenue that Tidewater is to refund, therefore is \$1,034,238 (i.e.; \$1,046,605 plus \$20,519 less \$32,886); and

WHEREAS, neither Tidewater nor the DPA dispute Staff's findings and there were no objections to the Refund Plan;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. Under the provisions of 26 *Del. C.* § 314, the Commission hereby approves as final Tidewater's 2020 DSIC Rate of 1.80%, effective January 1, 2020, through March 31, 2020, as previously allowed to go into effect by PSC Order No. 9511.
2. That the Commission approves the method of refund outlined in Tidewater's Refund Plan, as filed on April 22, 2021.
3. That Tidewater shall refund a total of \$1,034,238 to its customers as soon as practical, in the method outlined in the Refund Plan.
4. That nothing in this Order shall preclude the examination and challenge of Tidewater's claims in any base rate proceeding.
5. That the annual audit of the filings made in PSC Docket Nos. 19-0790 and 20-0337 are concluded.
6. That PSC Docket Nos. 19-0790 and 20-0337 shall remain open until Tidewater has completed its refund and submitted a refund report, and Staff has verified the refund amount.

7. That Tidewater shall not reinstate a DSIC rate until its established rate of return is not exceeded and will not be exceeded if the DSIC rate is reinstated, in accordance with 26 *Del. C.* § 314(b)(10).

8. That the Commission reserves the jurisdiction and authority to enter such further orders in these dockets as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chairman

Joann Conaway, Commissioner

Harold Gray, Commissioner

Manubhai “Mike” Karia, Commissioner

Kim F. Drexler, Commissioner

ATTEST:

Donna Nickerson, Secretary